

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAKAVIA MANAGEMENT CORP., et
al.,

Plaintiffs,

v.

BRANDON BIGELOW, et al.,

Defendants.

No. 1:20-cv-00448-NONE-SKO

ORDER DIRECTING THE CLERK TO
TERMINATE DEFENDANT BRANDON
BIGELOW

(Doc. 72)

On October 5, 2021, Plaintiffs filed a “Notice of Voluntary Dismissal with Prejudice of Claims Against Defendant Brandon Bigelow,” pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). (Doc. 72.)

In relevant part, Rule 41(a)(1)(A) provides as follows:

[A] plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A). “The plaintiff may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically terminates the action as to the defendants who are the subjects of the notice.” *Wilson v. City of San Jose*, 111 F.3d

688, 692 (9th Cir. 1997).

Plaintiffs filed their notice before Defendant Brandon Bigelow served either an answer or a motion for summary judgment. As such, Plaintiffs have voluntarily dismissed Brandon Bigelow with prejudice, and this case has automatically terminated as to that defendant. Fed. R. Civ. P. 41(a)(1)(A). Accordingly, the Clerk of the Court is directed to TERMINATE Defendant Brandon Bigelow.

This case shall remain OPEN pending resolution of Plaintiffs' case against the remaining defendants.

IT IS SO ORDERED.

Dated: **October 6, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE